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2 UNITED STATES DISTRICT COURT
3 FOR THE EASTERN DISTRICT OF MICHIGAN
4

5 Congregation Bais Chabad of) Case No.: No. _____
6 Farmington Hills,)
7 Plaintiff,)
8 vs.)
9 Tom Vilsack,)
10 Secretary United States Department of
11 Agriculture

12
13 Defendant(s)
14

15 LAW OFFICE OF GILBERT BORMAN PLLC
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22 -----/

23 COMPLAINT
24

25 I. Basis of this Complaint
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A. Summary of Case

Members of the Jewish community of Metropolitan Detroit annually conduct a 3500 year old religious observance known as Shlug Kapores, it takes place annually between the Jewish holidays of Rosh Hashanah and Yom Kippur. Yom

1 Kippur begins September 22 at sundown. The United States Department of
2 Agriculture is blocking the ritual by refusing to permit the plaintiff to use a
3 federally inspected facility for the ritual. Along with this Complaint, plaintiff
4 has filed an Emergency Motion for Injunctive Relief.

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6 Shlug Kapores is a millennia-old ritual dating back to ancient Jewish Temple
7 sacrifices in which a live chicken is offered as a sin offering. Under the ancient
8 and current sacrifice, a person asks that their sins and the sins of those they
9 love be transferred to the bird. The observance requires that the bird be ritually
10 slaughtered according to kosher practices. Lastly, the birds are given to
11 impoverished families to be eaten prior to the one day fast on the most solemn
12 day in the Jewish calendar, Yom Kippur. The sacrificed birds sustain the
13 recipients during the 27 hour fast on Yom Kippur.
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17 The United States Department of Agriculture and its representatives in
18 southeastern Michigan are unable and unwilling to permit an otherwise USDA
19 supervised poultry slaughter house, in this case a Muslim slaughterhouse
20 located in Hamtramck, Michigan to slaughter and prepare the birds according
21 to Jewish custom.
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24 II. Jurisdiction

25 Jurisdiction for this case is derived from 28 U.S.C. § 1331et seq. Additionally,
26 the case raises a federal question under Article 1 of the United States

1 Constitution and the defendant, the Secretary of the United States Department
2 of Agriculture as well as the department itself our agencies of the federal
3 government and only subject to federal court jurisdiction.

4 5 III. Statement of Venue

6 Venue is conferred upon this court under 28 U.S.C. § 1331, the actions
7 complained of have arisen in southeastern Michigan. By virtue of the plaintiff
8 residing in Farmington Hills Michigan and the defendant, a national federal
9 agency with offices in every state and with a local Detroit area office, venue is
10 also most convenient for all parties.

11 12 IV. Parties To the Case

13 Congregation Bais Chabad of Farmington Hills is an Orthodox Jewish synagogue
14 located in Farmington Hills, Michigan. For almost 31 years Rabbi Chaim Moshe
15 Bergstein has served as the Rabbi for the synagogue. He is an expert on Jewish
16 ritual practices and has served as an inspector for kosher meat departments in
17 conjunction with the Detroit kosher supervision rabbinic authorities in the
18 Metropolitan Detroit area. The synagogue is located at 32000 Middlebelt Rd.,
19 Farmington Hills, MI 48334.

20
21 Tom Vilsack is the Secretary of Agriculture for the United States government.
22 He has served as secretary since January 21, 2009. The Department of
23 Agriculture, among its many roles and duties supervises food safety and
24 inspection for America's farmers and food industry.

25 The Department of Agriculture's headquarters in Washington DC is located at
26 1400 Independence Ave. S.W., Washington DC, 20250. On information and

1 belief there is a local inspection office in Oak Park and the USDA Regional
2 Michigan Office is in Lansing.

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4 V. Facts of the Case

5 1. Shlug Kapores is an annual ritual done prior to Yom Kippur, the
6 holiest day of the Jewish calendar.

7 2. For over 25 years, Rabbi Bergstein has conducted the Detroit Shlug
8 Kapores for the Community at his synagogue.

9 3. The event is his synagogue's most attended event every year.

10 4. Financially, it is the single most important event for his synagogue
11 and the most important outreach he has to the Jewish Community at large.

12 5. The planning for the event begins many weeks in advance.

13 6. Shlug Kapores recreates the most important sacrifices from the
14 dawn of Jewish history. As in Temple times, the Almighty is requested to
15 transfer the sins to an animal to be ritually sacrificed (it is the origin of idea
16 of a "scapegoat").

17 7. After the ceremony of transfer, the bird is then sent to be
18 slaughtered using the traditional methods of kosher ritual killing which
19 requires the animal not suffer.

20 8. After slaughter the birds are returned to the owners, the
21 overwhelming majority are donated to feed the poor of the Jewish
22 community on the meal immediately preceding the 27 hour Yom Kippur
23 fast.
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1 9. There are no kosher poultry slaughter facilities in Michigan.

2 10. To be properly kosher, not only does the bird have to be
3 slaughtered using exacting 3600 year old standards, the bird has to be
4 cleaned and rendered as required under Jewish law.

5 11. The individual who kills the bird is called a "*shokhet*," they are
6 specially trained, usually an ordained rabbi.

7 12. Cleaning requires salting the meat and removing as much of the
8 blood as possible.

9 13. For health and safety reasons the birds have been taken to a
10 locations where the cleaning and rendering of the birds can be done
11 properly.

12 14. There has never been any known outbreak of food borne illness as
13 a result of the Detroit Jewish community Shlug.

14 15. Detroit has no *shokhet*; Rabbi Bergstein arranges for a *shokhet* to
15 come from Cleveland, Rabbi Avraham Labe Ginsberg has handled the duties
16 in Detroit for many years.

17 16. Because Cleveland has their own Shlug Kapores, the Detroit Shlug
18 has to be carefully scheduled, it has to be held just before Yom Kippur, it
19 cannot be held on the Sabbath and the slaughtered birds have to get to the
20 poor families.

21 17. In preparation for this year's Shlug, the prior slaughter location
22 was no longer available, Rabbi Bergstein was forced to find an alternate
23 location.
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1 18. After careful review, he found Amanah Poultry and Grocery of
2 Hamtramck, Michigan.

3 19. Amanah is a USDA inspected facility located at 10026 Conant St,
4 Hamtramck, MI 48212.

5 20. Its proprietor, Ahmed Hassan, an observant Muslim, slaughters
6 animals under the Islamic tradition known as "Halal."

7 21. Halal and kosher practices are very similar; most Muslims consider
8 anything kosher to be Halal.
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10 22. Rabbi Bergstein personally visited Amanah and determined Mr.
11 Hassan's poultry procedures are *exactly* the same as required under Jewish
12 law; his slaughter area is also perfectly suited to handle the number of birds
13 and process them correctly.

14 23. Under Jewish law, if a properly trained *shokhet* kills an animal
15 following the law, the meat is considered kosher.
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17 24. Mr. Hassan agreed to allow Rabbi Bergstein to bring the Shlug
18 chickens to his business to be slaughtered.

19 25. Hassan's facility is USDA inspected

20 26. Concerned that the USDA might have an issue, on or about
21 September 18, 2015, Hassan spoke to his USDA inspector about the plan to
22 slaughter the Detroit shlug's birds.
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24 27. He was told that under no circumstances could he do so by the
25 USDA inspector he spoke to, on information and belief, a "Mr. Dionne."
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1 28. Dionne objected on the basis of USDA requirements that any
2 kosher slaughter facility be certified and inspected, there is a months long
3 process to establish a kosher slaughter facility.

4 29. Additionally, Dionne was under the incorrect impression the birds
5 were to be given to a food bank when, in fact, the birds are provided to a
6 local school of Jewish teaching, called a Yeshiva, to be used to feed the
7 hungry there.

8 30. Hassan then called Rabbi Bergstein and advised him, on
9 information and belief, on or about Friday morning, September 18, 2015 that
10 USDA would not permit his Shlug birds to be slaughtered at Amanah.

11 31. With little time before the coming Sabbath, Rabbi Bergstein
12 retained counsel and requested they intercede with USDA.

13 32. Counsel was advised by Mr. Dionne and his supervisor that, while
14 they were sympathetic to the situation, their hands were tied and they could
15 not permit the birds to be slaughtered at Amanah.

16 33. They were advised in a voice mail on Friday at 4:30 that this case
17 would be filed and that injunctive relief would be sought in the federal
18 district court.

19 34. In order for a facility to be certified as a kosher establishment, an
20 applicant must fill out certain forms, arrange for certain inspections, have a
21 compliant facility and otherwise comply with USDA regulations; they must
22 also have a trained *shokhet* and fully comply with the relevant kosher
23 requirements.
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1 35. The Amanah facility is fully USDA compliant and otherwise fully
2 complaint with Jewish ritual slaughter requirements.

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4 V. Claims

5 A. Unconstitutional Interference With Religious Practice

6 36. Plaintiff incorporates the facts and law cited above and complains:

7 37. Defendant's refusal to allow the 2015 Shlug Kapores slaughter
8 constitutes, however well intentioned, as an impermissible infringement on
9 the Plaintiff and the rights of the Jewish community of Detroit wishing to
10 perform Shlug Kapores.

11 38. That the Constitution does not permit unreasonable interference
12 with religious practice.

13 39. That because the Amanah facility is otherwise USDA inspected
14 there is no greater likelihood of food borne illness than the usual activities
15 at the facility and because Rabbi Bergstein and Rabbi Avraham Labe
16 Greenberg are experts on Jewish ritual practice, there is no chance the birds
17 will not be deemed kosher; if Rabbi Greenberg and Rabbi Bergstein say it is
18 kosher, it is kosher.

19 40. USDA was asked, but refused, to allow Amanah to process the
20 Shlug birds in the very same way that they would do so under Halal. If Rabbi
21 Greenberg were to otherwise ritually slaughter birds at Amanah, they would
22 be deemed Halal.
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41. There is no possible way to use another facility; it would have to be set up and ready by Monday evening; there slaughtered birds are to be eaten Tuesday evening- there is simply not enough time to find an alternate facility.

42. USDA's refusal to allow an otherwise fully compliant facility to be used for the Shlug is simply unreasonable under these facts and circumstances.

43. Plaintiff is perfectly willing to comply with all USDA regulations in the future and only seeks relief for this year only.

44. Plaintiff seeks no damages for economic loss; he seeks only to be able to hold Shlug Kapores at his Synagogue.

VI. Prayer for Relief

Wherefore, Plaintiff does beg this honorable court to grant his contemporaneous Emergency Motion for Injunctive Relief and issue an Order to USDA and Amanah Poultry to make all reasonable steps necessary to permit the 2015 Shlug.

Respectfully Submitted,

Dated this 20 September 2015.

____/s/____Gilbert Borman____
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